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09/681,311

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Milton Silva-Craig

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EXAMINER

GILLIGAN, CHRISTOPHER L

ART UNIT

PAPER NUMBER

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/681,311	<b>Applicant(s)</b> SILVA-CRAIG ET AL.	
	<b>Examiner</b> Luke Gilligan	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/20/07 has been entered.

***Response to Amendment***

2. In the amendment filed 2/27/07 and entered with the submission of a request for continued examination filed 4/20/07, the following has occurred: claims 1, 18, 29, 38, and 47 have been amended. Now, claims 1-50 are presented for examination.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 has been amended to recite "automatically translate said medical information into a medical image format-compatible format" and "automatically create associated medical data including at least one of a link to said medical information and said medical information." The use of the term "automatically" implies that the function is performed "automatically" in response to some trigger or event. However, it is unclear from the claims what causes the "automatic" functions. For the purpose of applying art, the Examiner will interpret these

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limitations to recite "automatically translate said medical information into a medical image format-compatible format in response to receiving said medical information" and "automatically create associated medical data including at least one of a link to said medical information and said medical information in said medical format-compatible format associated with at least one of a link to said medical image and said medical image in response to automatically translating said medical information".

6. Claims 2-17 contain the same deficiencies as claim 1 through dependency and, as such, are rejected for the same reasons as given above.

Claims 18-50 have also been amended, directly or indirectly, to specify that a certain function or functions is/are performed "automatically" without indicating what triggers or causes the automated function. Therefore, these claims are rejected for the same rationale as given above for claim 1.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims are rejected under 35 U.S.C. 102(e) as being anticipated by Beaulieu et al., U.S. Patent Application Publication No. 2002/0091659.

9. As per claim 18, Beaulieu teaches a centralized medical information system, said system comprising: an interface unit adapted to receive medical information, wherein said

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interface unit is adapted to automatically translate said medical information into a medical image format-compatible format (see paragraph 0032, i.e. conversion of text information), wherein said interface unit is adapted to receive a medical image (see paragraph 0029), wherein said interface unit is adapted to automatically create associated medical data including at least one of a link to said medical information and said medical information in said medical image format-compatible format associated with at least one of a link to said medical image and said medical image, and transmitting said associated medical data (see paragraph 0033), said medical image and medical information associated for transmission as associated medical in said medical-image format compatible format data based on a common identification element (see paragraph 0033); and a data center receiving said associated medical data and storing for later retrieval said associated medical data including at least one of a link to said medical information and said medical information associated with at least one of a link to said medical image and said medical image (see paragraph 0035).

10. As per claim 19, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said data center comprises an archive for storing medical images and medical information (see paragraph 0036).

11. As per claim 20, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said data center comprises a viewer for allowing access to medical images and medical information (see paragraph 0036).

12. As per claim 21, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said data center comprises an application service provider (see paragraph 0035).

13. As per claim 22, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said data center further comprises an external access interface for allowing

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users to access medical images and medical information at the data center (see paragraph 0036, i.e. transmission to other handheld computers).

14. As per claim 23, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said medical information comprises radiology information (see paragraph 0030).

15. As per claim 24, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said interface unit comprises a broker for translating said medical information format (see paragraph 0032).

16. As per claim 26, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said data center comprises a web server for allowing access to medical images and medical information via web browsers (see paragraph 0009).

17. As per claim 27, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said interface unit transmits a link representing the location of said medical information (see paragraph 0033).

18. As per claim 28, Beaulieu teaches the system of claim 18 as described above. Beaulieu further teaches said interface unit transmits a link representing the location of said medical image (see paragraph 0033).

19. Claims 29-34 and 37 recite substantially similar method limitations to those already addressed in claims 18-24 and 26-28 and, as such, are rejected for similar reasons as given above.

20. Claims 38-46 and 47-50 recite substantially similar method limitations to those already addressed in claims 18-24 and 26-28 and, as such, are rejected for similar reasons as given above

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***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaulieu et al., U.S. Patent Application Publication No. 2002/0091659 in view of Ilkin et al., U.S. Patent Application No. 2003/0130786.

23. As per claim 25, Beaulieu teaches the system of claim 24 as described above. Beaulieu does not explicitly teach translating from HL7 to SQL format. Ilkin teaches translating medical information from HL7 to SQL format (see paragraph 0021). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the system of Beaulieu. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of a greater variety of access to pertinent patient information (see paragraph 0010 of Ilkin).

24. Claims 35 and 36 recite substantially similar method limitations to those already addressed in claim 25 and, as such, are rejected for similar reasons as given above.

***Allowable Subject Matter***

25. Claims 1-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

27. The following is a statement of reasons for the indication of allowable subject matter: The primary reasons for indicating the allowability of claims 1-18, if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action, is

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the inclusion of the limitations found in all of the claims that is not found in the prior art of a medical information source that provides medical information in a medical information format, a medical image source that provides medical images in a medical image format, and, upon receiving the medical information at an interface unit, the interface unit is adapted to automatically translate the medical information into a medical image format-compatible format, in response to automatically translating, the interface unit automatically creates associated medical data in the form as claimed, the interface unit being further adapted to transmit the associated medical data to a data center. The closest prior art (Wong, Rothschild, and Gropper) teaches a system with the same elements that performs the functions of translating medical information to a medical image format, creating associated medical data , and transmitting the associated medical data to a data center. However, the prior art, and Wong in particular, fails to teach an interface unit that is adapted to automatically translate the medical information into a medical image format-compatible format in response to receiving the medical information and , in response to automatically translating, the interface unit automatically creates associated medical data in the form as claimed.

28. In addition, Beaulieu teaches a similar system as described above in the rejection of claim 18. However, Beaulieu does not explicitly teach creating associated medical data as claimed because Beaulieu teaches a medical image source containing medical images in a first medical image format and translating them to a second medical image format before creating the associated medical data. Therefore, claims 1-17 distinguish over Beaulieu as well.

### ***Response to Arguments***

29. Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection and the indication of allowable subject matter.




***Conclusion***

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

7/8/07

  
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**PRIMARY EXAMINER**  
**TECHNOLOGY CENTER 3600**